

Jean Hamelin - testimony to HB 5207

From: Ladislav Hanka <ladhanka@yahoo.com>
To: <jhamelin@house.mi.gov>
Date: 8/25/2009 3:24 PM
Subject: testimony to HB 5207
Attachments: AR-M355N_20090825_121858-1.pdf

Dear Ms. Hamelin-

here as we'd discussed is a short piece of testimony for members of the Commerce committee meeting tomorrow. The attachment is a copy of the Public act referenced in the letter. Only the first page (act no 158) is relevant. I appreciate the help at such short notice,

best wishes

Ladislav Hanka

To Members of the Michigan House Commerce Committee

Regarding: HB 5207

The land being conveyed to Western Michigan University commonly known as The Colony Farm Orchard and formerly a part of the Kalamazoo State Hospital System is bound by legislative deed restriction:

From Public Acts 1977 – No. 158

Sec. 3: Utilization of the property.

“ The conveyance shall provide that Western Michigan University may utilize the property solely for public park, recreation or open space purposes, except that the legislature, by statute, may authorize western Michigan university to utilize the property for some other purpose”.

At the 1977 transfer of the land to WMU, the Attorney General's Office explained that the state was "transferring jurisdiction" and that was not the same as ownership. The legislation (P.A. 158) transferred less than complete ownership rights to WMU, because of the restrictive language present in the bill. The intention of the lawmakers who wrote the legislation of conveyance in 1977 was clear: this property as v

as the adjacent 275-acre Asylum Lake Preserve (1975 Public Act 316, as amended) were both to be set as for public use. That has since been made unmistakably clear by lawmakers Robert Welborn and Jack Welborn who interceded on several occasions to keep the deed restrictions in place.

Submitted by Ladislav R. Hanka

Board member of Asylum Lake Protection Association

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COLONY FARM ORCHARD

710

PUBLIC ACTS 1977—No. 158

[No. 158]

AN ACT to authorize the state administrative board to convey certain property in the county of Kalamazoo; and to prescribe the conditions of the conveyance.

The People of the State of Michigan enact:

Conveyance of land to western Michigan university; consideration; description.

Sec. 1. The state administrative board is authorized to convey to western Michigan university without consideration a certain portion of land now under the jurisdiction of the department of mental health located in section 25, T2S, R12W, Oshtemo township, Kalamazoo county, Michigan, described as:

(a) All that part of the southeast 1/4 of section 25 lying easterly of the east right of way line of highway U.S. 131 relocated which is described as: commencing at the east 1/4 corner of section 25; thence north $00^{\circ} 16' 40''$ east, 915.61 feet; thence south $74^{\circ} 09' 21''$ west, 600.56 feet; thence south $15^{\circ} 30' 39''$ east, 75.00 feet to a point of beginning; thence south $35^{\circ} 24' 10''$ west, 194.65 feet; thence south $15^{\circ} 25' 14''$ west, 313.35 feet; thence south $74^{\circ} 34' 46''$ east, 25.00 feet; thence south $15^{\circ} 25' 14''$ west, 500.00 feet; thence north $74^{\circ} 34' 46''$ west, 25.00 feet; thence south $15^{\circ} 25' 14''$ west, 329.65 feet; thence south $01^{\circ} 46' 06''$ west, 425.63 feet; thence south $07^{\circ} 39' 46''$ east, 624.84 feet; thence south $10^{\circ} 54' 46''$ east, 418.39 feet to the point of curvature of a curve to the left (radius 2761.79 feet) and being concentric to and 103.00 feet easterly of the center line of the northbound roadway of highway U.S. 131 relocated; thence southeasterly along the arc of said curve 670 feet, more or less, to the center line of Parkview avenue and a point of ending; excepting therefrom the south 75 feet of the southeast 1/4 of section 25 lying easterly of the east right of way line of said highway U.S. 131 relocated.

(b) Also all that part of the northeast 1/4 of section 25, T2S, R12W, described in this subdivision which lies easterly of the east right of way line of highway U.S. 131 relocated as described in subdivision (a); beginning at the east 1/4 corner of section 25; thence north along the east line of section 25, 62.0 feet; thence south $89^{\circ} 17' 15''$ west, 987.5 feet parallel to the east-west 1/4 line of section 25; thence south parallel to the east line of section 25, 62.0 feet; thence north $89^{\circ} 17' 15''$ east, 987.5 feet along the east-west 1/4 line of section 25 to the point of beginning.

Conveyance subject to condition.

Sec. 2. The land described in section 1 is presently leased by the state to the board of trustees of Michigan state university. This lease provides that the department of entomology of Michigan state university have and hold the land for as long as the department of entomology conducts experimental fruit pest research on the land. The conveyance authorized in section 1 is subject to the condition that the lease between the state and the board of trustees of Michigan state university be continued, as written, between western Michigan university and the board of trustees of Michigan state university.

Utilization of property.

Sec. 3. The conveyance shall provide that western Michigan university may utilize the property solely for public park, recreation, or open space purposes, except that the legislature, by statute, may authorize western Michigan university to utilize the property for some other public purpose.

Preparation and approval of instrument conveying property.

Sec. 4. The instrument to convey the property described in section 1, subject

**CONVEYANCE
RESTRICTION**



to the lease condition of section 2, shall be prepared and approved by the department of attorney general.

This act is ordered to take immediate effect.

Approved November 8, 1977.

[No. 159]

AN ACT to amend sections 8, 62, 66, 72b, 78 and 95 of chapter 16 of the Revised Statutes of 1846, entitled "Of the powers and duties of townships, and election and duties of township officers," section 95 as amended by Act No. 21 of the Public Acts of 1975, being sections 41.8, 41.62, 41.66, 41.72b, 41.78 and 41.95 of the Compiled Laws of 1970; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Sections amended; townships.

Section 1. Sections 8, 62, 66, 72b, 78 and 95 of chapter 16 of the Revised Statutes of 1846, section 95 as amended by Act No. 21 of the Public Acts of 1975, being sections 41.8, 41.62, 41.66, 41.72b, 41.78 and 41.95 of the Compiled Laws of 1970, are amended to read as follows:

41.8 Annual meeting of township; time; place; conducting business at public meeting; notice of meeting. [M.S.A. 5.8]

Sec. 8. The annual meeting of each township shall be held on the Saturday immediately preceding the first Monday in April in each year, at the time and place selected by the township board as provided in section 361 of Act No. 116 of the Public Acts of 1954, as amended, being section 168.361 of the Michigan Compiled Laws. The business which may be performed at a meeting of a township shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

41.62 Books, assessment rolls, and other papers; preservation; delivery to successor in office; availability to public; certified copies of papers or abstracts; fee; certified copy or abstract as evidence. [M.S.A. 5.53]

Sec. 62. The supervisor shall preserve and keep all books, assessment rolls, and other papers belonging to the supervisor's office in a safe and suitable place, but not in a saloon, restaurant, public inn, hotel, place of public amusement, or in a place where intoxicating drinks are kept or sold, or where gaming or plays of chance are carried on, or where the books, assessment rolls, and other papers will be exposed to unusual hazard from fire or theft. The supervisor shall deliver the books, assessment rolls, and other papers on demand to his or her successor in office. The books, assessment rolls, papers, and any other writing prepared, owned, used, in the possession of, or retained by the supervisor in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. On application of a person the supervisor shall give certified copies of the papers, or abstracts from an assessment roll or books in the supervisor's office. For making copies or abstracts the supervisor shall be entitled to receive from the person applying 6 cents for each folio, and a copy or abstract and certificate shall be required for not less than 12-1/2 cents. A

LIBER 1059 PG 1057

QUIT-CLAIM DEED -- STATE OF MICHIGAN

THIS INDENTURE, made this 26th day of June, 1978, by and between the STATE OF MICHIGAN, by the STATE ADMINISTRATIVE BOARD, hereinafter called the GRANTOR, whose address is The Capitol Building, Lansing, Michigan; and the BOARD OF TRUSTEES OF WESTERN MICHIGAN UNIVERSITY, a constitutional body corporate, hereinafter referred to as GRANTEE, whose address is Western Michigan University, Kalamazoo, Michigan;

WITNESSETH:

WHEREAS, the State Administrative Board is by virtue of 1977 PA 158 authorized to convey to Western Michigan University without consideration, a certain portion of land, hereinafter described, now under the jurisdiction of the Department of Mental Health situated in the Township of Oshtemo, County of Kalamazoo, subject to the provisions of said act, and;

WHEREAS, the Board of Trustees of Western Michigan University are by virtue of said act authorized to accept said conveyance;

NOW THEREFORE, the State of Michigan by the State Administrative Board, QUIT-CLAIMS to the Board of Trustees of Western Michigan University the following described property situate in Section 25, T2S, R12W, Oshtemo Township, Kalamazoo County, more particularly described as:

"(a) All that part of the southeast 1/4 of section 25 lying easterly of the east right of way line of highway U.S. 131 relocated which is described as: commencing at the east 1/4 corner of section 25; thence north 00°16'40" east, 915.61 feet; thence south 74°09'21" west, 600.56 feet; thence south 15°50'39" east, 78.00 feet to a point of beginning; thence south 38°24'10" west, 194.65 feet; thence south 15°25'14" west, 313.38 feet; thence south 74°34'16" east, 25.00 feet; thence south 15°25'14" west, 500.00 feet; thence north 74°34'46" west, 25.00 feet; thence south 15°25'14" west, 329.65 feet; thence south 01°46'06" west, 425.63 feet; thence south 07°39'46" east, 624.84 feet; thence south 10°54'46" east, 418.39 feet to the point of curvature of a curve to the left (radius 2761.79 feet) and being concentric to and 103.00 feet easterly of the center line of the northbound roadway of highway U.S. 131 relocated; thence southeasterly along the arc of said curve 670 feet, more or less, to the center line of Parkview avenue and a point of ending; excepting therefrom the south 75 feet of the southeast 1/4 of section 25 lying easterly of the east right of way line of said highway U.S. 131 relocated.

STATE OF MICHIGAN
COUNTY OF KALAMAZOO
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Public & Commercial

REGISTER OF DEEDS

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"(b) Also all that part of the northeast 1/4 of section 25, T2S, R12W, described in this subdivision which lies easterly of the east right of way line of highway U.S. 131 relocated as described in subdivision (a): beginning at the east 1/4 corner of section 25; thence north along the east line of section 25, 62.0 feet; thence south 89°17'15" west, 987.5 feet parallel to the east-west 1/4 line of section 25; thence south parallel to the east line of section 25, 62.0 feet; thence north 89°17'15" east, 987.5 feet along the east-west 1/4 line of section 25 to the point of beginning."

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, subject unto but herewith assigning all of the State of Michigan's right, title and interest in and to that certain lease dated the 1st day of July, 1974, wherein the State of Michigan appears as lessor and the Board of Trustees of the Michigan State University appears as lessee, a copy of which lease is attached hereto and incorporated by reference; upon the condition that the Board of Trustees of Western Michigan University utilize the property herein conveyed solely for public park, recreation or open space purposes unless otherwise authorized by public act.

The Board of Trustees of Western Michigan University does covenant and agree that in consideration of the coveyance and assignment of all of the State's right, title and interest in and to the lands hereinbefore described, that said Board will faithfully perform, discharge and fulfill all of the lessor's obligations under said lease and will perform all of those duties and responsibilities required under the terms of said lease.

IN WITNESS WHEREOF, the State of Michigan by the State Administrative Board, and the Board of Trustees of Western Michigan University, pursuant to Act 158 of the Public Acts of 1977 and Resolution of the State Administrative Board adopted on the 21st day of MARCH, 1978, have executed this QUIT-CLAIM DEED by the Chairman and Secretary of the State Administrative Board on the date first above written and by the Chairman and Secretary of the Board of Trustees of Western Michigan University on September 22, 1978.

WITNESSES:

STATE OF MICHIGAN
By the STATE ADMINISTRATIVE BOARD

LIBER 1059 PG 1059

* Mary M. Hobley
Mary M. Hobley

By: William G. Milliken
Chairman, William G. Milliken

* Barbara J. Boyle
Barbara J. Boyle

By: Paul H. Wileden
Secretary, Paul H. Wileden

WITNESSES:

BOARD OF TRUSTEES, WESTERN MICHIGAN
UNIVERSITY

* Barbara Johnston
Barbara Johnston

By: Charles D. Ludlow
Chairman* Charles D. Ludlow

* William J. Kowalski
William J. Kowalski

By: Robert W. Harnal
Secretary* Robert W. Harnal

STATE OF MICHIGAN)
COUNTY OF INGHAM) ss

On this 26th day of June, 1978, before me, the undersigned, a Notary Public in and for said County, personally appeared William G. Milliken and Paul H. Wileden, to me personally known and being by me duly sworn, did each for himself say that they are respectively, the Chairman and Secretary of the State Administrative Board, and that the foregoing instrument was signed by them on behalf of the State of Michigan and the State Administrative Board pursuant to the terms of Act 158, Public Acts of 1977, and resolution adopted by the State Administrative Board on the 21st day of March, 1978, and said William G. Milliken and Paul H. Wileden, each for himself acknowledged said instrument to be the free act and deed of the State of Michigan and the State Administrative Board.

Phyllis K. Dell
* Phyllis K. Dell
Notary Public, Ingham County, Michigan
My Commission expires:
November 22, 1980

STATE OF MICHIGAN)
COUNTY OF KALAMAZOO) ss

On this 22nd day of September, 1978, before me, the undersigned, a Notary Public in and for said County, personally appeared Charles D. Ludlow and Robert W. Harnal, to me personally known and being by me duly sworn, did each for himself say that they are respectively, the Chairman and Secretary of the Board of Trustees, Western Michigan University, and that the foregoing instrument was signed by them on behalf of the said Board of Trustees, Western Michigan University, pursuant to a resolution adopted by the Board of Trustees, Western Michigan University on the 15th day of April, 1978, and said Charles D. Ludlow and Robert W. Harnal, each for himself acknowledge said instrument to be the free act and deed of the State of Michigan and the Board of Trustees, Western Michigan University.

Shirley R. Miars
* Shirley R. Miars
Notary Public, Kalamazoo County, Michigan
My Commission expires: SHIRLEY R. MIARS

LIBER 1059 PC 1060

DRAFTED BY:

Russell E Prins
Assistant Attorney General
630 Law Building
Lansing, Michigan

AFTER SIGNATURE PLEASE RETURN TO:

Thomas R. Bouman, Supervisor
Real Estate Management
Management Division
Department of Management & Budget
Stevens T. Mason Building
Lansing, Michigan